
GENERAL ORDER

FAIRFAX COUNTY POLICE DEPARTMENT



SUBJECT: VEHICLE TRAFFIC STOPS AND
CHECKPOINTS

NUMBER: 540.3

CANCELS ORDER DATED: 1-1-05

ISSUE DATE: 04-1-13

I. PURPOSE

The purpose of this General Order is to establish guidelines regarding traffic stops, investigative stopping of vehicles, and road check procedures.

II. POLICY

Traffic enforcement is an important aspect of policing in Fairfax County. Officers are to provide traffic enforcement and education with the goal of gaining voluntary community compliance with the traffic laws and the reduction of traffic accidents.

When making traffic stops, it is the policy of the Department, absent mitigating or exigent circumstances, for officers to immediately greet and identify themselves to the operator and state the basis for the stop.

Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests, nonconsensual searches, and property seizures.

Except as provided below, officers shall not consider race/ethnicity in establishing either reasonable suspicion or probable cause. Similarly, except as provided below, officers shall not consider race/ethnicity in deciding to initiate even those nonconsensual encounters that do not amount to legal detentions or to request consent to search.

Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident(s). Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion.

Except as provided above, race/ethnicity shall not be motivating factors in making law enforcement decisions.

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III. DEFINITIONS

- A. Investigative Stop: Temporary detention of a subject when the officer has reasonable suspicion that criminal activity or traffic infraction has occurred, is occurring, or is about to occur.
- B. Reasonable Suspicion: Facts and circumstances which, taken together with rational inferences therefrom, would cause an officer to reasonably suspect that a person is, has been, or is about to be, involved in criminal activity or in violation of a traffic law.
- C. Probable Cause: Facts and circumstances which, taken together with rational inferences therefrom, would lead a prudent person to believe:
1. (To arrest)...that a crime is being or has been committed and that a particular person committed it; or
 2. (To search)...that evidence of a crime or contraband is in the place to be searched.

IV. VEHICLE STOPS

The United States Supreme Court decision in Delaware v. Prouse limited the statutory authority granted law enforcement officers in Virginia under Section 46.2-103, which allowed officers to stop any vehicle for the purpose of inspection. The court's decision established the following premises to be considered in the realm of vehicle stops:

- The stopping of an auto and the detention of its occupant(s) constitutes a seizure within the meaning of the Fourth and Fourteenth Amendments, even though the purpose of the stop is limited and the resulting detention quite brief.
- The state's interest in indiscriminate spot checks as a means of ensuring safety on its highways does not outweigh the resulting intrusion on the privacy and security of the person detained.

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- An individual operating or traveling in an automobile does not lose all reasonable expectations of privacy simply because the automobile and its use are subject to government regulation.
- A. Officers shall make vehicle stops only when they are able and prepared to articulate at least a reasonable suspicion that criminal activity or traffic violation has occurred or is occurring.
- B. Absent any mitigating or exigent circumstances, officers shall immediately greet and identify themselves to the operator and state the basis for the stop.
- C. Mitigating and exigent circumstances shall only include articulable officer safety concerns, medical emergencies or situations where the best interests of the Department and County would not be served by advising the basis for the stop.
- D. Upon stopping a vehicle for a traffic violation, officers need not in all circumstances issue a Virginia Uniform Summons (PD60). In cases where no summons is issued, officers shall issue the departmental Warning Ticket or the Warning Card (PD66) to formally warn the violator and complete the Field Contact Module, describing the violation.
- E. In circumstances where a vehicle stop is made due to suspicion of criminal activity, the officer shall document such information in the Field Contact Module when no arrest is made. If an arrest is made, the arrest shall be documented in an incident report. All such documentation will include, but is not limited to, the following:
 1. Time the stop began and ended.
 2. Location of the stop.
 3. Reason(s) for the stop
 4. Vehicle operator and occupants, if applicable
 5. Vehicle description

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- F. In circumstances where a vehicle is stopped, the operator or passenger(s) are detained for questioning and/or provide information concerning their identity, and probable cause or reasonable suspicion for the stop ceases to exist, the officer shall document the contact in the Field Contact module or on an incident report.
- G. In circumstances where a vehicle is stopped and it is quickly determined that the stop was in error (i.e., misreading of inspection sticker, did not observe County sticker, etc.), the operator shall be informed as to why they were stopped. The officer shall not request identification from the operator and the operator shall be immediately released. No formal documentation of the stop is required; however, the officer shall make a note of the stop in their field notebook.

V. VEHICLE SEARCHES

- A. Carroll Doctrine: When probable cause exists that a vehicle in a public place contains contraband or evidence of a crime, a warrantless search of the vehicle may be conducted.
 - 1. The scope of the search is defined by the object of the search and the places in which there is probable cause to believe that it may be found.
 - 2. If probable cause justifies a search of the vehicle, an officer may search, without a warrant, the vehicle and any containers in the vehicle which may conceal the object of the search.
 - 3. If probable cause justifies only a limited search of a vehicle for a particular container, the container itself may be searched without a warrant.
- B. Consent Search: When a person who shares use, access, or control of a vehicle voluntarily consents to allow a police officer to search it, a warrantless search of the vehicle may be conducted.
 - 1. A consent search may be revoked or limited by the person in control

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of the vehicle at any time while the search is being conducted. At that time the officer must stop the search, or abide by the limitations.

2. If asked, officers shall advise citizens that they have the right to refuse to consent to a search of their vehicle.
3. An officer's use of coercive or intimidating language may be interpreted by a citizen as compelling compliance. Requests for a consent search shall be conveyed in a manner that the citizen has a choice and that compliance is not required.

C. Documentation of Vehicle Searches and Requests

1. Consent Searches: Officers requesting consent to search a vehicle shall document their request. The denial of consent to search by the person in control of the vehicle, and any property seized or confiscated, shall also be documented.
 - a. When a consent search is requested and denied, documentation shall be satisfied by properly completing the Field Contact Module or an incident report.
 - b. When a consent search is requested and granted and no property/contraband is seized or confiscated, documentation shall be satisfied by properly completing the Field Contact Module or an incident report.
 - c. When a consent search is granted and property/contraband is discovered, the search and property disposition shall be recorded in an incident report. The event classification "Vehicle Search" shall be written on the incident report, documenting a consensual search or denial of consent to search. In cases where a criminal violation is also being reported, the "Vehicle Search" classification shall be listed after the criminal offense classification.
2. Non-Consensual Searches: All non-consensual searches shall be documented in a Field Investigation Report or, when appropriate, a

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Vehicle Tow-In and Inventory Record. A non-consensual search is not a vehicle inventory (see General Order 520.4, Impoundment or Seizure of Motor Vehicles, concerning vehicle inventory). The event classification "Vehicle Search" shall be written on the incident report, documenting the non-consensual search. In cases where a criminal violation is also being reported, the "Vehicle Search" classification shall be listed after the criminal offense classification.

VI. CHECKPOINTS

It is the policy of the Fairfax County Police Department that checkpoints will be utilized for the purpose of inspecting motor vehicles, trailers, or semitrailers for equipment and operation; manufacturer's serial or engine number; enforcement of operator's license and vehicle registration laws; apprehending alcohol and/or drug impaired drivers; and appropriate enforcement action on other violations of law that come to the officers' attention.

Additionally, this policy is applicable to the inspection of motor vehicles, trailers, or semitrailers for the purposes defined in Title 49 of the *Code of Federal Regulations*, as adopted by the Virginia Code.

Vehicle stops, based on reasonable, articulable suspicions, are not checkpoint seizures; therefore no specific plan, supervisory restrictions, or other implementations need to be considered, other than those necessary to ensure public and officer safety (i.e., the possible consideration for visibility, terrain, weather, traffic cones, signage, or use of any other location and/or safety equipment that officers and/or supervisors may deem appropriate). Virginia courts have upheld checkpoints using reasoning similar to the U.S. Supreme Court; however, the checkpoint must be carried out pursuant to a plan embodying explicit neutral limitations on the conduct of the officers. Indianapolis v. Edmund (2000) found that a checkpoint to ensure and improve traffic safety is lawful when the field officer's discretion is limited and the checkpoint is established pursuant to an explicit plan.

Hall v. Commonwealth (1991) restricted officers from deciding when and where a checkpoint would take place because the discretion was too broad and was thus likely to lead to abuse. Crouch v. Commonwealth (1997) upheld the constitutionality

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of a checkpoint when officers do not have "unbridled discretion" in deciding when and where to begin stopping vehicles. The U.S. Supreme Court decision in Michigan State Police v. Sitz (1990) upheld the constitutionality of sobriety checkpoints if they are established according to certain guidelines. Bailey v. Commonwealth (1999) established that evasive maneuvers seemingly intended to avoid a roadblock may also establish reasonable suspicion for a stop. However, merely avoiding a roadblock via completely legal maneuvers will not justify a stop; there must be some other factors which suggest that the motorist turned in order to evade the roadblock.

All checkpoints involve a constitutional detention, a seizure of a person, without any level of particular, individualized doubt, i.e., reasonable suspicion or probable cause. Since there is no focused suspicion on an individual, rather than assessing the existence or absence of probable cause or reasonable suspicion when the use of a check point is challenged, courts will examine police conduct and the circumstances of the stop and determine if the checkpoint is a reasonable intrusion and therefore justifiable, under the Fourth Amendment. In the context of sobriety checkpoints, this reasonableness determination involves an analysis of three factors: (i) the magnitude of the state's interest in preventing accidents caused by intoxicated drivers; (ii) the extent to which the checkpoint advances that goal; and (iii) the measure of intrusion on an individual's privacy, both objectively, as perceived by the reviewing court, and subjectively, as the motorist may perceive the intrusion.

A. Supervisor Responsibilities

1. Checkpoint sites will be selected by first line supervisors in their assigned area and approved by their respective station/division commander using the following criteria:
 - a. The location should provide maximum safety for both the approaching motorists and the officers conducting the checkpoint. Consideration should be given to posted speed limits, traffic volume, and sight distance.
 - b. The site should have adequate space available to park police vehicles and allow motorists to be pulled out of the traffic flow for further interview and/or administration of field sobriety tests.

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c. The site should have sufficient lighting to illuminate the checkpoint and adjacent pull-off area. If permanent lighting is unavailable, adequate portable lighting must be provided.

d. The location must allow for placement of advance warning signs that clearly notify approaching motorists of the sobriety checkpoint ahead. Flares, traffic cones, and/or other warning devices should be utilized to enhance safety and traffic flow. (United States v. Martinez-Fuert, 428 U.S. 543 (1976))

2. An operations plan will be developed for each checkpoint site by a first line supervisor and approved by their respective station/division commander. Checkpoints specifically designed to apprehend alcohol and/or drug impaired drivers shall be reviewed and approved by the Traffic Division Commander before implementation.

All checkpoint plans shall address the following points:

- a. Statistical data supporting the selection of the checkpoint site.
- b. Date, hours of operation, and location of each checkpoint.
- c. A contingency plan, in the event safety considerations prevent checkpoint operations at the intended location.
- d. Procedures for screening alternatives if traffic volume or other factors prevent the pre-planned method of screening. The method for determining when to change screening procedures, who will make the decision, and the alternative procedures will be listed in detail in the operations plan and shall not be deviated from by participating personnel. Vehicles will not be stopped on a discretionary basis. All vehicles, regardless of type, shall be checked. This includes commercial vehicles such as buses and large trucks.
- e. The number of officers to be assigned to the checkpoint.

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- f. A diagram of each checkpoint location, depicting the roadway, placement of traffic control devices, and investigation areas for administering field sobriety tests.
 - g. List of equipment required for conducting the checkpoint.
- B. Officer Responsibilities
 - 1. Officers shall not conduct checkpoints without the approval of their first-line supervisor.
 - 2. Vehicle stops based on reasonable, articulable suspicions, such as expired County tags, State vehicle registrations and inspections, may be utilized at checkpoints.
 - 3. Officers on checkpoint detail are responsible for ensuring that all necessary precautions are taken to afford the highest degree of safety to officers and motorists.
 - 4. Patrol vehicles should be parked to provide protection to the officers and high visibility to approaching motorists.
 - 5. Officers shall be in uniform, including hat, and shall wear the traffic safety vest.
 - 6. During their initial contact officers shall identify themselves and advise the operator why they have been stopped. Officers may utilize discretion in issuing summonses.
- C. An operational briefing will be conducted prior to the establishment of each checkpoint. The purpose of the briefing is to:
 - 1. Ensure that all personnel fully understand the Department policy concerning checkpoints.
 - 2. Designate assignments and respective duties.
- D. For the purpose of public information and education, the Department may

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announce to the media the approximate time frame within which checkpoints will be conducted.

1. The Department may encourage media interest in the sobriety checkpoint program to enhance public perception of aggressive enforcement, to heighten the deterrent effect and to ensure protection of constitutional rights.
2. This Department will provide advance notification of the checkpoint to public safety agencies expected to be impacted.

E. Sobriety Checkpoints

It is the policy of the Department to utilize sobriety checkpoints in order to apprehend impaired drivers and increase the perception of "risk of apprehension" of motorists who would operate a vehicle while impaired by alcohol or other drugs.

The following guidelines shall be adhered to when conducting a sobriety checkpoint:

1. A supervisor shall be present at the checkpoint. All operational decisions shall be made by the on-site supervisor.
2. All participating personnel involved in screening vehicles shall be in uniform and shall wear the reflective traffic safety vest, uniform hat or issued ball cap.
3. Traffic control measures shall be implemented to provide adequate warning to motorists approaching the checkpoint.
4. Patrol vehicles shall be parked to provide protection to officers and to be highly visible to approaching motorists. Patrol vehicles should also be situated to allow for pursuit, if necessary.
5. Adequate space should be available away from the checkpoint for the parking of suspected impaired drivers' vehicles and the administration of field sobriety tests. This space should be a coned traffic lane, a

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wide shoulder area, or other suitable location. Provisions shall also be made for the vehicles of arrested parties in keeping with Department policy.

6. Vehicles will not be stopped on a discretionary basis, i.e., due to the "looks" of the vehicle. However, this does not preclude stopping a vehicle when the driver exhibits obvious signs of intoxication.
 7. Depending on the configuration of the checkpoint, sufficient personnel should be used as screening officers. When approaching a vehicle, screening officers shall scan the interior and occupants for weapons and/or other contraband. Upon determining that no hazard exists, the officer shall advise the driver the purpose of the stop. Delays of motorists shall be kept to a minimum, averaging 25-30 seconds.
 8. All vehicles, regardless of type, should be subject to screening.
 9. In the event articulable signs or behavior normally associated with DWI are observed, further investigation will be conducted. From this point on, normal investigative/arrest techniques shall be used. Arrestees should be transported as expeditiously as possible. The officer who originally screens the driver shall conduct field sobriety tests and arrest. Transportation should normally be handled by the arresting officer. Drivers who are not arrested after completing the field sobriety tests shall be directed back into traffic.
 10. The supervisor is responsible for the overall operation of the checkpoint and ensuring that the above procedures are adhered to. The supervisor is also responsible for ensuring that a record is kept of the number of vehicles that pass through the checkpoint, the number of arrests made, and any problems encountered.
- F. A complete written evaluation report shall be prepared for each sobriety checkpoint operation by the supervisor in charge. Items in the report should include:
1. Date, time and location of the checkpoint.

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2. Weather conditions.
 3. Number of vehicles passing through the checkpoint.
 4. Average time delay to motorists.
 5. Predetermined order of selecting motorists.
 6. Number and types of arrests.
 7. Number of motorists detained for field sobriety testing.
 8. Identification of unusual incidents such as safety problems, or other concerns.
- G. The complete sobriety checkpoint operations plan, briefing notes/lesson plan, and evaluation report shall be forwarded to the commander of the Traffic Division.
- H. Commercial Motor Vehicle (CMV) Checkpoints

Officers who have satisfactorily completed training in the inspection of commercial motor vehicles, and are certified "Special Agents" of the Federal Motor Carrier Safety Administration, are granted the authority under Title 49, 396.9 of the *Code of Federal Regulations* to stop and inspect any commercial motor vehicle or trailer. Any stop conducted under such authority shall be to inspect a commercial motor vehicle or its driver. Enforcement action may be taken on any violation which comes to the attention of the officer. Any violations may be written under the applicable county, state or federal code.

1. A CMV checkpoint location should be selected using the following criteria:
 - a. It is preferred that large checkpoint operations be conducted in open areas such as parking lots.
 - b. If an inspection site is located adjacent to the roadway, it

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should have adequate visibility to provide safety to approaching motorists and officers conducting the checkpoint.

- c. Sites should have adequate space available to park police vehicles and allow motorists to be pulled out of the traffic flow.
 - d. Sites should be approved for a specific time frame. Factors for consideration include weather conditions and traffic volume.
 - e. If the CMV checkpoint is conducted on private property, permission of the property owner or agent should be secured prior to the checkpoint.
2. The Traffic Safety supervisor, or his supervisory designee, is responsible for the planning and execution of commercial motor vehicle checkpoints.
 3. The supervisor shall establish the procedures for stopping and inspecting vehicles.
 4. At the direction of any Motor Carrier Safety qualified officer, Traffic Division Officers may escort commercial motor vehicles into the CMV checkpoint location for inspection.
 5. All CMV inspections will be documented on a Motor Carrier Safety Inspection Form (PD110) or recorded in the ASPEN database.

VII. LEGAL REFERENCE

Code of Virginia § 46.2-103

VIII. ACCREDITATION STANDARDS REFERENCE

VLEPSC

ADM.
02.02

OPR.
07.01

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02.03

07.03

02.05

07.04

07.10

This General Order becomes effective April 1, 2013, and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

APPROVED BY:

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Chief of Police

A handwritten signature in black ink, appearing to be "Edward L. [unclear]", written over a horizontal line.

County Executive